

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION**

JESSE IRELAND,)	
)	Civil Action File No.
Plaintiff,)	
)	_____
v.)	
)	<i>Removed from:</i>
THE KROGER CO. AND JOHN DOE,)	State Court of Fulton County
)	Civil Action No. 23EV000665
Defendants.)	
)	

DEFENDANT THE KROGER CO.'S PETITION FOR REMOVAL

Pursuant to 28 U.S.C. § 1441, Defendant The Kroger Co. (hereinafter referred to as “Kroger”) hereby petitions this Court for removal of this action, and shows this Honorable Court the following:

1.

This civil action was filed by Plaintiff Jesse Ireland (the “Plaintiff”) in the State Court of Fulton County, Georgia, said county being part of the Northern District of Georgia, Atlanta Division. N.D. Ga. Local Rule 3.1(A), LR App. A, I. The Atlanta Division of this Court is the proper Division for this removal as further set forth below.

2.

The action is a civil action for personal bodily injuries and medical expenses, and this Court has subject matter jurisdiction by reason of the diversity of citizenship of the parties. 28 U.S.C. §§ 1441, 1332.

3.

The amount in controversy exceeds \$75,000.00, the statutory minimum amount, exclusive of interest and costs, as evidenced by Plaintiff's Demand Letter dated September 19, 2022 (the "Demand Letter"). A true and correct copy of the Demand letter, redacted for HIPAA compliance and Plaintiff's confidentiality, is attached hereto and incorporated herein by reference as Exhibit A.

4.

At the time of the commencement of this action in the State Court of Fulton County, upon information and belief, and according to Plaintiff's Complaint for Damages, the Plaintiff was and is now a citizen of Georgia.

5.

Kroger, at the time the action was commenced and at the present time, was and still is a corporation, incorporated and existing under and by virtue of the laws of Ohio having its principal place of business in Ohio, and a citizen of Ohio.

6.

The Plaintiff alleges in his Complaint that, due to the negligence of Kroger, he was struck by a cart by a Kroger employee at Kroger's grocery store located at 3330 Piedmont Road NE, Atlanta, Georgia 30305. (Exhibit. B, Complaint ¶ 1).

7.

True and correct copies of all process, pleadings, and orders served upon Kroger in this action are attached hereto collectively as Exhibit C.

8.

This civil action is based on a controversy between citizens of different states, and as outlined above, the amount in controversy exceeds \$75,000.00. As such, this matter has become ripe for removal based on federal diversity jurisdiction.

9.

The instant *Petition for Removal* is being timely filed pursuant to and in accordance with 28 U.S.C. § 1446(b)(3), within thirty days of the service of Plaintiff's Complaint.

10.

Further, the instant Petition is timely filed, pursuant to and in accordance with 28 U.S.C. § 1446(c)(1), within one year of the commencement of the action.

11.

Accordingly, this action, over which this Court has original subject matter jurisdiction pursuant to 28 U.S.C. § 1332, is removable to the United States District Court for the Northern District of Georgia, pursuant to 28 U.S.C. § 1441.

12.

Venue is proper in the Atlanta Division of the United States District Court for the Northern District of Georgia pursuant to 28 U.S.C. § 1441, 28 U.S.C. § 1391, and N.D. Ga. Local Rule 3.1(B)(1)(a). Specifically, Plaintiff's Complaint was filed in the State Court of Fulton County, which is part of the Atlanta Division. See N.D.G.A. Local Rule 3.1(A), LR App. A, I.

13.

As required by 28 U.S.C. § 1446(d), Kroger shall give written notice hereof to all adverse parties and shall file a copy of this Petition with the Clerk of the State Court of Fulton County.

14.

WHEREFORE, Kroger requests that this action be removed from the State Court of Fulton County and proceed in this Court.

Respectfully submitted this the 1st day of March, 2023.

**GRAY, RUST, ST. AMAND,
MOFFETT & BRIESKE, L.L.P.**
950 East Paces Ferry Road, N.E.
Suite 1700 – Salesforce Tower Atlanta
Atlanta, Georgia 30326
Telephone: (404) 870- 1054
Facsimile: (404) 870-1030
Email: mmoffett@grsmb.com
Email: cjarman@grsmb.com

/s/ *Camille N. Jarman*
Matthew G. Moffett
Georgia Bar No. 515323
Camille N. Jarman
Georgia Bar No. 600736
*Attorneys for Defendant The Kroger
Co.*

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CERTIFICATE OF SERVICE AND COMPLIANCE WITH L.R. 5.1

This is to certify that I have this day served the **DEFENDANT THE KROGER CO'S PETITION FOR REMOVAL** upon all counsel of record by electronic mail and/or by depositing same in the United States mail in a properly addressed envelope with adequate postage thereon to:

Stephen R. Fowler, Esq.
Ronald D. Legette, Jr., Esq.
THE FOWLER FIRM, LLC
Peachtree 25th Building
1720 Peachtree Street NW
Suite 118
Atlanta, GA 30309

This is to further certify that the foregoing complies with the font and point selections approved by the Court in Local Rule 5.1. It is prepared in Times New Roman 14-point font.

Respectfully submitted this the 1st day of March, 2023.

**GRAY, RUST, ST. AMAND,
MOFFETT & BRIESKE, L.L.P.**
950 East Paces Ferry Road, N.E.
Suite 1700 – Salesforce Tower Atlanta
Atlanta, Georgia 30326
Telephone: (404) 870- 1054
Facsimile: (404) 870-1030
Email: mmoffett@grsmb.com
Email: cjarman@grsmb.com

/s/ **Camille N. Jarman**
Matthew G. Moffett
Georgia Bar No. 515323
Camille N. Jarman
Georgia Bar No. 600736
Attorneys for Defendant The Kroger Co.